

**From:** Shane Chen  
**To:** Microsoft ATR  
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**Subject:** On the Proposed Final Judgment.

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I'd like to comment on the Proposed Final Judgment (PFJ) in United States v. Microsoft (<http://www.usdoj.gov/atr/cases/ms-settle.htm>).

My name is Shane Chen. I'm currently working as a web master for the Institute for Creative Technologies ([www.ict.usc.edu](http://www.ict.usc.edu)). In the past five years, I also worked as a network administrator, and technical support. I can easily attest to Microsoft domination of the office applications, middleware, and operating systems market.

If the PFJ "must seek to 'unfetter a market from anticompetitive conduct', to 'terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future'" (section V.D., p. 99), the current proposal is wholly inadequate. Not only are the terms such as "API", "middleware", and "Windows OS" too narrowly defined, the current PFJ seems to only be a veiled attempt at "punishing Microsoft."

In short, the current PFJ still leaves everyone at the mercy of Microsoft. MS could rename a product, create a new product, fail to provide sufficient documentation to competitors, etc., and even if MS was caught violating the PFJ, they would spend months and years in court to argue that they weren't in violation. Meanwhile, business still has to go on. People still need operating systems to drive their machines, MS word to do word processing, etc. And MS's competitors would suffer because the easiest way to easier compatibility and avoid problems would still be to use MS products. Because of this, the current PFJ cannot possible restore competition to the computer software market.

The easiest and the most elegant solution, is not by doing anything directly to Microsoft, but putting Microsoft in the position where they actually have to compete, instead doing anything they please knowing full well there's not a thing anyone could do about it. This is NOT an impossible task. However, to accomplish this, the U.S. government would have to lead the way.

If the U.S. government would decree that all government software be

switched away from closed sourced proprietary solutions to open source based solutions, then everyone could compete fairly. This would give immediate incentive for all businesses wanting government business to at least in part run open source software. Microsoft would instantly cease to be the dominate player in the computer software market.

This is of course, not excluding Microsoft from competition. Microsoft is welcome to compete in that space. They could provide open source solutions or file formats, or at the very least, have to also create products that can no longer exclude competition by intentional proprietary design.

The simplicity of this solution would actually restore competition to a market that is currently at the will and whimsy of Microsoft. Of course, the appellate courts have no such legal power to decree this, but the dominance of Microsoft in the computer software market space will require a solution of this magnitude.

God save us all,  
Shane Chen